IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Income Tax Appeal No. 563 of 2001

1. The Commissioner of Income, Meerut.
2. Deputy Commissioner of Income Tax, Special Circle, Dehradun.

…Appellants

Versus

Hughes Services (FE) Pvt. Ltd.
as Agent of Mr. Suyadam PRS,
C/o G.C. Nagalia (Advocate),
20 – A, New Road, Dehradun.

….Respondent.

Hon'ble M.M. Ghildiyal, J.
Hon'ble B.S. Verma, J.:

Heard Sri S.K. Posti, learned counsel for the appellant and Sri Arvind Vashisth, learned counsel for the respondent.

The present appeal is filed against the judgment and order dated 20.03.2001 passed by Income Tax Appellate Tribunal, Delhi in ITA No. Nil/ D /1994 pertaining to the assessment year 1990 – 91. In this appeal, we required to answer two questions of law they are as follows:

Whether on the facts and circumstances of the case ITA was legally justified in holding that substance allowance comprising free boarding facility provided by the employer on board the rig in high seas cannot be constructed to be perquisite?

Whether on the facts and circumstances of the case the Tribunal erred in law for holding off period salary was taxable in India under Section 19 (1) (ii) of the Income Tax Act?

Both the questions have already been decided. The first question has been decided by this court in the case of Commissioner of Income Tax and another Vs. Sedco Forex, reported in Volume 264 ITR page 320. The question was answered in favour of the assessee and against the Department. The second question has also been decided by Hon'ble Apex Court reported in JT 2005 (9) SC 639 (Sedco Forex International Drill Inc. and others Vs. Commissioner of Income Tax, Dehradun and Anr.) as such, the answer is in favour of assessee and against the department.

Following the above mentioned judgments, the question are decided accordingly.

In view of the above, the appeal is disposed of. No order as costs.

(B. S. Verma, J) **(M.M. Ghildiyal, J.)**

December 23, 2005
SKSharma